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10 **UNITED STATES DISTRICT COURT**
11 **EASTERN DISTRICT OF WASHINGTON**

12 STATE OF WASHINGTON;
13 STATE OF OREGON; STATE OF
14 ARIZONA; STATE OF
15 COLORADO; STATE OF
16 CONNECTICUT; STATE OF
17 DELAWARE; STATE OF
ILLINOIS; ATTORNEY GENERAL
18 OF MICHIGAN; STATE OF
19 NEVADA; STATE OF NEW
20 MEXICO; STATE OF RHODE
21 ISLAND; and STATE OF
22 VERMONT,

Plaintiffs,

v.

20 UNITED STATES FOOD AND
21 DRUG ADMINISTRATION;
22 ROBERT M. CALIFF, in his official
capacity as Commissioner of Food
and Drugs; UNITED STATES

NO. 1:23-cv-03026

ORDER GRANTING PLAINTIFF
STATES' MOTION FOR
PRELIMINARY INJUNCTION

[PROPOSED]

03/27/2023

With Oral Argument at time and
location to be determined by Court

ORDER GRANTING PLAINTIFF
STATES' MOTION FOR
PRELIMINARY INJUNCTION
[PROPOSED]

1 DEPARTMENT OF HEALTH AND
2 HUMAN SERVICES; and XAVIER
3 BECERRA, in his official capacity
as Secretary of the Department of
Health and Human Services,
4
5 Defendants.

6 This matter came before the Court on Plaintiff States' Motion for
7 Preliminary Injunction. The Court has considered all of the following:

- 8 1. Plaintiff States' Motion for Preliminary Injunction (ECF No. ____)
with supporting declarations and exhibits;
- 9 2. Defendants' Response to Plaintiff States' Motion for Preliminary
10 Injunction (ECF No. ____);
- 11 3. Plaintiff States' Reply in Support of Motion for Preliminary
12 Injunction (ECF No. ____); and
- 13 4. The entire record in the above-captioned matter.

14 Being fully apprised of the matter, now, therefore, it is hereby
15
16 ORDERED, ADJUDGED, AND DECREED that the Plaintiff States'
17 Motion for Preliminary Injunction is hereby GRANTED.

18 The Court finds that the Plaintiff States have established a likelihood of
19 success on the merits of their claims under the Administrative Procedure Act, that
20 they would suffer irreparable harm absent preliminary injunctive relief, and that
21 the balance of equities and the public interest weigh in favor of an injunction.
22

1 The Court, therefore, hereby GRANTS a preliminary injunction against
2 the enforcement or application of the mifepristone Risk Evaluation and
3 Mitigation Strategy (REMS). The Court further GRANTS a preliminary
4 injunction enjoining Defendants from taking any action to remove mifepristone
5 from the market or cause the drug to become less available. The Court finds that
6 the available evidence demonstrates that mifepristone is extremely safe and
7 effective for the termination of intrauterine pregnancies up to 70 days gestation.
8 The restrictions imposed by the REMS, including the Elements to Assure Safe
9 Use, are contrary to 21 U.S.C. § 355–1 and arbitrary and capricious. If the REMS
10 were to continue to be in effect, or the FDA took any other action that limited the
11 availability and use of mifepristone, it would irreparably harm the Plaintiff States,
12 including by burdening Plaintiff State institutions and providers who provide
13 abortion care and dispense mifepristone, imposing uncompensable financial costs
14 on the Plaintiff States, and harming the health and well-being of Plaintiff State
15 patients and providers.

16 Thus, pursuant to Rule 65(a) of the Federal Rules of Civil Procedure, the
17 Food and Drug Administration, the Department of Health and Human Services,
18 their officers, agents, servants, employees, and attorneys, and any person in active
19 concert or participation with them, are hereby PRELIMINARILY ENJOINED
20 from enforcing or applying the mifepristone Risk Evaluation and Mitigation
21 Strategy and from taking any action, direct or indirect, to remove mifepristone
22

1 from the market or cause the drug to become less available, in any manner or in
2 any respect, and shall preserve the status quo until further order of the Court.

3 No bond shall be required pursuant to Federal Rule of Civil
4 Procedure 65(c).

5 It is SO ORDERED.

6 ISSUED this _____ day of _____ 2023.

7
8 _____
JUDGE/MAGISTRATE

9 Presented by:

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11 Attorney General

12 /s/ Kristin Beneski

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8 **Application for pro hac vice admission*
9 *forthcoming*

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9 **Application for pro hac vice admission*
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19 **Application for pro hac vice admission*
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7 *Application for pro hac vice admission
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14 *Forthcoming*